IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

OP.No. 36313 of 2001(W)

PETITIONER:

1. KUNJULAKSHMI AMMA,
W/O.LATE CHELLAPPAN PILLAI,
THIRUVANANTHAPURAM - 16 (DIED)

ADDL. P2 TO P6 IMPLEADED

2. C. SASIDHARAN NAIR, LATE CHELLAPPAN PILLAI,
SOUMYA, KOOTTAPPANA, NEYYATTINKARA,
THIRUVANANTHAPURAM.

3. C. SUKUMARAN NAIR, S/O. LATE CHELLAPPAN PILLAI
MAYA NIVAS, ATHIYANNOOR P.O.,
PATHENKALLU, NEAR ARALUMMOODEU, NEYYATTINKARA
THIRUVANANTHPURAM.

4. K. VASANTHA S. NAIR, W/O. SASIDHARAN NAIR, ASWATHI,
THIKKAD P.O., THIRUVANANTHAPURAM - 14.

5. KALA AJITH,W/O. AJITH KUMAR, ANUPAM, KOWDIYAR P.O.,
JAWAHAR NAGAR, THIRUVANANTHAPURAM-3

6. C. SURESH KUMAR, S/O. LATE CHELLAPPAN PILLAI,
T.C. 23/1803, (OLD NO. T.C. 9/183), JAWAHAR NAGAR,
THIRUVANANTHAPURAM -16
(ADDL. P2 TO P6 IMPLEADED AS PER ORDER DT. 18.01.2006 IN I.A.
NO.543/06.)

BY ADV. SRI.N.HARIDAS
SRI. SUNDEEP HARIDAS

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY ITS
CHIEF SECRETARY, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.

3. THE TAHSILDAR, TALUK OFFICE, THIRUVANANTHAPURAM.

4. THE VILLAGE OFFICER, SASTHAMANGALAM, THIRUVANANTHAPURAM.

5. SMT. SARASWATI AMMA, W/O. SRI. C.P. NAIR, HUSE NO. A1,
STREET NO.A JAWAHAR NAGAR, THIRUVANANTHAPURAM.

ADDL. R6 IMPLEADED

6. RENUKA BANERJI, W/O. BANERJI, PUTHUVAL PUTHENVEEDU,
PERIMPUZHA P.O. KUNDARA, KOLLAM DISTRICT.
(IMPLEADED AS PER ORDER DT. 18.01.2006 IN I.A. NO.543/06)

BY ADV. SRI. K.R. DEEPA, GOVERNMENT PLEADER
SRI.M.K.CHANDRA MOHANDAS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON C.M.P. NO. 59313/2001 IN O.P. NO. 36313/2001

DISMISSED

21.06.2007 SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE RE-SURVEY PLAN OF THE PROPERTY HELD BY THE PETITIONER WHERE HER RESIDENTIAL BUILDING IS SITUATES.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 31.07.1993 OF THE MUNSIFF'S COURT, THIRUVANANTHAPURAM.

EXT.P3: TRUE COPY OF THE RECEIPT EVIDENCING PAYMENT OF PROPERTY TAX BY THE PETITIONER'S HUSBAND TO THE THIRUVANANTHAPURAM CORPORATION FOR THE YEARS 1982-83 AND 84.

EXT.P4: TRUE COPY OF THE PROPERTY TAX RECEIPT DATED 29.07.1997 ISSUED BY THE THIRUVANANTHAPURAM COPRORATION YEAR 1997-1998.

EXT.P5: TRUE COPY OF THE RECEIPT DATED 30.09.2001 FOR HAVING PAID THE CONSUMER BILL AMOUNT TO THE KERALA WATER AUTHORITY.

EXT.P6: TRUE COPY OF THE IDENTITY CARD ISSUED TO THE PETITIONER'S SON VIJAYAKUMAR BY THE ELECTION COMMISSION OF INDIA.

EXT.P7: TRUE COPY OF PAGE NOS. 1 & 4 OF THE RATION CARD ISSUED IN THE NAME OF PETITIONER'S HUSBAND.

EXT.P8: TRUE COPY OF THE REPRESENTATION DATED 20.01.1996 SUBMITTED BY THE PETITIONER'S HUSBAND BEFORE THE 3RD RESPONDENT.

EXT.P9: TRUE COPY OF THE REPRESENTATION DATED 27.09.2001 SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE CHIEF MINISTER OF KERALA WITH COPY TO THE REVENUE MINISTER.

EXT.P10: TRUE COPY OF NOTICE DATED 01.10.2001 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

EXT.P11: TRUE COPY OF DATED 02.10.2001 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P12: TRUE COPY OF THE DIRECTION DATED 06.10.2001 ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R5(a): TRUE COPY OF APPLICATION DATED 27.11.2000 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 2ND RESPONDENT.

EXT.R5(b): TRUE COPY OF REPLY DATED 21.07.2001 RECEIVED BY THE 5TH RESPONDENT FROM THE 2ND RESPONDENT.

EXT.R5(c): TRUE COPY OF APPEAL PETITION DATED 05.10.2001 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE COMMISSIONER OF LAND REVENUE, TRIVANDRUM.

EXT.R5(d): TRUE COPY OF PETITION DATED 09.10.2001 FILED BY THE 5TH RESPONDENT BEFORE THE HON'BLE MINISTER OF REVENUE & LAW.

EXT.R5(e): PHOTOCOPY OF THE SALE DEED DATED 28.12.1957 EXECUTED BETWEEN THE PETITIONER'S HUSBAND AND ONE GOURI AMMA.

EXT.R5(f): PHOTOCOPY OF LETTER DATED 28.02.1992 RECEIVED FROM THE 3RD RESPONDENT BY THE 5TH RESPONDENT.

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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O.P. NO. 36313 OF 2001

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Dated this the 21st day of June, 2007.

JUDGMENT

The original petition filed with the following prayers:

i) issue a Writ of Certiorari or any other appropriate writ, order or direction quashing Ext.P10.

ii) issue a Writ of Mandamus or any other appropriate writ, order or direction directing the 3rd respondent to issue pattayam to the petitioner in respect 1.850 cents of puramboke land occupied by the petitioner wherein the residential building is also situated in Survey No. 125 (resurvey No. 68) of Sasthamangalam Village for which petitioner's husband had already submitted application for assignment before the 3rd respondent and pending consideration in Proceedings No. 772 of 1985.

iii) issue a Writ of Mandamus or any other appropriate writ, order or direction directing the 3rd respondent not to proceed with Ext. P10 or disturb the possession and enjoyment of the puramboke land having an extent of 1.850 cents of land in Survey No. 125 v (resurvey No. 68) of Sasthamangalam village where the residential building of the petitioner is also situated.

2. Since the proceedings initiated as per Ext.P10 by the Tahsildar is under Section 11(3) of the Kerala Land Conservancy Act the petitioner is free to pursue his statutory remedy of appeal before the Revenue Divisional Officer. or 5th respondent regarding the respective claims for assignment. Accordingly, the writ petition is disposed of as

follows:

In the event of additional petitioners and the additional 6th respondent approaching the Revenue Divisional Officer within a period of two months from today against Ext.P10 the same shall be treated as filed in time and thereafter, orders in accordance with law, adverting to the contentions taken by the parties, shall be passed within another three months, with notice to the appellants as well as to the 5th respondent. The interim order in C.M.P. No. 59313/2001 will continue till orders are passed by the Revenue Divisional Officer.

KURIAN JOSEPH, JUDGE.

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